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Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

BARBARA JEAN STACY
31700 Railroad Canyon Rd., #3
Canyon Lake, CA 92587

Physical Therapist License No. PT 9115

Respondent.

Case No. 1D-2000-62604

OAH No. L-2003010851

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Physical Therapy Board of California of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation

PARTIES

1. Steven K. Hartzell (Complainant) is the Executive Officer of the Physical Therapy Board of California. He brought this action solely in his official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by E. A. Jones III, Deputy Attorney General.

2. Respondent Barbara Jean Stacy (Respondent) is represented in this proceeding by attorney Steven L. Graff, whose address is Steven L. Graff, Inc., 11877 Enterprise Circle North, Suite 100, Temecula, CA 92590-5628.

3. On or about March 30, 1979, the Physical Therapy Board of California issued Physical Therapist License No. PT 9115 to Respondent. The License was in full force and effect at all times relevant to the charges brought in Accusation No. 1D-2000-62604 and will expire on August 31, 2005, unless renewed.

JURISDICTION

4. Accusation No. 1D-2000-62604 was filed before the Physical Therapy Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 7, 2003. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 1D-2000-62604 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1D-2000-62604. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 1D-2000-62604, if proven at a hearing, constitute cause for imposing discipline

1 upon her Physical Therapist License.

2 9. Respondent neither admits nor denies the truth of the allegations contained
3 in the Accusation, but for purposes of settlement of the pending action against her and to avoid a
4 protracted and costly administrative hearing, she agrees that if the matter went to hearing,
5 Complainant could put on a *prima facie* case. Respondent waives her right to defend the case in
6 a hearing, and agrees that there is jurisdiction for the Board to enter into this stipulation pursuant
7 to section 2660 of the Business and Professions Code

8 10. Respondent agrees that her Physical Therapist License is subject to
9 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the
10 Disciplinary Order below.

11 CIRCUMSTANCES IN MITIGATION

12 11. Respondent Barbara Jean Stacy has never been the subject of any
13 disciplinary action. She is admitting responsibility at an early stage in the proceedings.

14 RESERVATION

15 12. The admissions made by Respondent herein are only for the purposes of
16 this proceeding, or any other proceedings in which the Physical Therapy Board of California or
17 other professional licensing agency is involved, and shall not be admissible in any other criminal
18 or civil proceeding.

19 CONTINGENCY

20 13. This stipulation shall be subject to approval by the Physical Therapy Board
21 of California. Respondent understands and agrees that counsel for Complainant and the staff of
22 the Physical Therapy Board of California may communicate directly with the Board regarding
23 this stipulation and settlement, without notice to or participation by Respondent or her counsel.
24 By signing the stipulation, Respondent understands and agrees that she may not withdraw her
25 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon
26 it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement
27 and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be
28 inadmissible in any legal action between the parties, and the Board shall not be disqualified from

1 further action by having considered this matter.

2 14. The parties understand and agree that facsimile copies of this Stipulated
3 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
4 force and effect as the originals.

5 15. In consideration of the foregoing admissions and stipulations, the parties
6 agree that the Board may, without further notice or formal proceeding, issue and enter the
7 following Disciplinary Order:

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that Physical Therapist License No. PT 9115 issued
10 to Respondent Barbara Jean Stacy is revoked. However, the revocation is stayed and Respondent
11 is placed on probation for three (3) years on the following terms and conditions.

12 1. RESTRICTION OF PRACTICE - NO EMPLOYMENT OR
13 SUPERVISION OF PHYSICAL THERAPY STUDENT INTERNS Respondent shall not
14 supervise any physical therapy student interns during the entire period of probation. Respondent
15 shall terminate any such supervisory relationship in existence on the effective date of this
16 probation.

17 2. RESTRICTION OF PRACTICE - NO EMPLOYMENT OR
18 SUPERVISION OF PHYSICAL THERAPIST LICENSE APPLICANTS, PHYSICAL
19 THERAPIST ASSISTANT APPLICANTS, PHYSICAL THERAPIST ASSISTANTS, OR
20 PHYSICAL THERAPY AIDES Respondent shall not supervise any physical therapist license
21 applicants or physical therapist assistant applicants during the entire period of probation.
22 Respondent shall terminate any such supervisory relationship in existence on the effective date
23 of this probation. Respondent may supervise only one physical therapist assistant and one
24 physical therapy aide at any given time during the period of probation.

25 3. NOTIFICATION TO PATIENTS The respondent shall notify all current
26 and potential patients of any term or condition of probation which will affect their treatment or
27 the confidentiality of their records (such as a condition for a practice monitor). Such notification
28 shall be signed and dated by each patient prior to the commencement or continuation of any

1 examination or treatment of each patient by the respondent and a copy of such notification shall
2 be maintained in the patient's record.

3 4. PROBATION MONITORING COSTS All costs incurred by the Board
4 for probation monitoring during the entire period of probation shall be reimbursed by respondent.
5 Respondent will be billed at least quarterly. Failure to make the ordered reimbursement within
6 60 days of the billing shall constitute a violation of the probation order. In addition to the filing
7 of an Accusation or the issuance of an administrative citation, the filing of criminal charges shall
8 be sought when appropriate.

9 5. COST RECOVERY The respondent is ordered to reimburse the Board
10 the actual and reasonable investigative and prosecutorial costs incurred by the Board in the
11 amount of \$1,500.00. The respondent will make payments on a quarterly basis in the amount of
12 \$125.00. Respondent may at any time during the course of the probation period pay the then
13 remaining cost recovery amount in a lump sum. Failure to make the ordered reimbursement, or
14 any agreed upon payment, may constitute a violation of the probation order.

15 6. OBEY ALL LAWS Respondent shall obey all federal, state and local
16 laws, and statutes and regulations governing the practice of physical therapy in California.

17 7. COMPLIANCE WITH ORDERS OF A COURT The respondent shall be
18 in compliance with any valid order of a court. Being found in contempt of any court may
19 constitute a violation of probation.

20 8. QUARTERLY REPORTS Respondent shall submit quarterly
21 declarations under penalty of perjury on forms provided by the Board, stating whether there has
22 been compliance with all the conditions of probation.

23 9. PROBATION MONITORING PROGRAM COMPLIANCE Respondent
24 shall comply with the Board's probation monitoring program.

25 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent
26 shall appear in person for interviews with the Board, or its designee, upon request at various
27 intervals and with reasonable notice.

28 11. NOTIFICATION OF PROBATIONAL STATUS TO EMPLOYERS The

respondent shall notify all present or future employers of the reason for and the terms and conditions of the probation by providing a copy of the Accusation and the decision and order (stipulated settlement) to the employer. The respondent shall obtain written confirmation from the employer that the documents were received. If the respondent changes employment or obtains additional employment, the respondent shall provide the above notification to the employer and submit written employer confirmation to the Board within 10 days. The notification(s) shall include the name, address and phone number of the employer, and, if different, the name, address and phone number of the work location.

12. NOTIFICATION OF CHANGE OF NAME OR ADDRESS The respondent shall notify the Board, in writing, of any and all changes of name or address within ten (10) days.

13. PROHIBITED USE OF ALIASES Respondent may not use aliases and shall be prohibited from using any name which is not her legally-recognized name or based upon a legal change of name, except that Respondent may continue to do business under the name used as of the time the accusation was filed.

14. WORK OF LESS THAN 20 HOURS PER WEEK If the respondent works less than 192 hours in a period of three months, those months shall not be counted toward satisfaction of the probationary period. The respondent shall notify the Board if she works less than 192 hours in a three month period.

15. TOLLING OF PROBATION The period of probation shall run only during the time respondent is practicing within the jurisdiction of California. If, during probation, respondent does not practice within the jurisdiction of California, respondent is required to immediately notify the probation monitor in writing of the date that respondent's practice is out of state, and the date of return, if any. Practice by the respondent in California prior to notification to the Board of the respondent's return will not be credited toward completion of probation. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled.

16. VIOLATION OF PROBATION If respondent violates probation in any

1 respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke
2 probation and carry out the disciplinary order that was stayed. If an accusation or petition to
3 revoke probation is filed against respondent during probation, the Board shall have continuing
4 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
5 is final.

6 17. CESSATION OF PRACTICE DUE TO RETIREMENT, HEALTH OR
7 OTHER REASONS Following the effective date of this probation, if respondent ceases
8 practicing physical therapy due to retirement, health or other reasons, respondent may request to
9 surrender her license to the Board. The Board reserves the right to evaluate the respondent's
10 request and to exercise its discretion whether to grant the request or to take any other action
11 deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the
12 tendered license, the terms and conditions of probation shall be tolled until such time as the
13 license is no longer renewable, the respondent makes application for the renewal of the tendered
14 license or makes application for a new license.

15 18. COMPLETION OF PROBATION Upon successful completion of
16 probation, respondent's license or approval shall be fully restored.

17 19. WRITTEN EXAM ON THE LAWS & REGULATIONS GOVERNING
18 THE PRACTICE OF PHYSICAL THERAPY Within 90 days of the effective date of this
19 decision, respondent shall take and pass the Board's written examination on the laws and
20 regulations governing the practice of physical therapy in California. If respondent fails to pass
21 the examination, respondent shall be suspended from the practice of physical therapy until a
22 repeat examination has been successfully passed.

23 20. PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY WHILE
24 ON PROBATION It is not contrary to the public interest for the respondent to practice physical
25 therapy under the probationary conditions specified in the disciplinary order.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Steven L. Graff. I understand the stipulation and the effect it will have on my Physical Therapist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Physical Therapy Board of California.

DATED: 12/30/04.

Original Signed By:
BARBARA JEAN STACY
Respondent

I have read and fully discussed with Respondent Barbara Jean Stacy the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 01/02/04.

Original Signed By:
STEVEN L. GRAFF
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Physical Therapy Board of California of the Department of Consumer Affairs.

DATED: 01/02/04.

BILL LOCKYER, Attorney General
of the State of California

Original Signed By:
E. A. JONES III
Deputy Attorney General

Attorneys for Complainant

Exhibit A

Accusation No. 1D-2000-62604

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OAH No. L-2003010851

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 08, 2004.

It is so ORDERED February 05, 2004.

Original Signed By: Donald Chu, PhD, PT, President
FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS